R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

SUPPORT FOR THE CLAIM AMENDMENTS

Support for the claim amendments can be found in the specification, for example, on page 23 lines 9-18, page 24 lines 7-21, page 25 lines 1-16, page 26 lines 1-20, page 27 lines 1-10, page 34 lines 14-21, page 35 lines 1-20, page 36 lines 1-21, page 37 lines 1-11 and FIGS 8, 10 and 11, as originally filed. Thus, no new matter has been added.

OBJECTION TO THE DRAWINGS

While Applicant's representative does not necessarily agree with the requirement to label FIGS. 1-5, in order to further prosecution, FIGS. 1-5 have been labeled "conventional". Replacement FIGS. 1-5 are submitted herewith. As such, the objection to the drawings should be withdrawn.

DOUBLE PATENTING

The double patenting advisory has been obviated by appropriate amendment and should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §101

While Applicant's representative does not necessarily agree with the rejection of claims 1-15 and 18-20 under 35 U.S.C. §101 as being non-statutory subject matter, the claims have been amended in the interest of advancing the prosecution. As such, the rejection to the claims should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

The rejection of claims 1-4 and 6-20 under 35 U.S.C. §102(a) as being anticipated by "Simple Data Link (SDL) protocol: An Efficient and Lower Complexity Data Link Protocol for High-Speed Packet Networks" by Doshi et al. (hereafter Doshi) has been obviated by appropriate amendment and should be withdrawn.

Doshi concerns a simple data link (SDL) protocol as an efficient and low complexity data link protocol for high-speed packet networks (Title). In contrast, the present invention provides an apparatus generally comprising an interface connectable to a network. The interface may be configured to transmit information via a frame in the network. The frame generally comprises a plurality of packets. At least one of the packets has (i) a header section having a plurality of identification portions, (ii) a header error portion and (iii) a payload error portion. Doshi does not appear to disclose or suggest every element as arranged in the claims. As such, the claimed invention is fully

patentable over the cited reference and the rejection should be withdrawn.

Claim 1 provides a frame comprising a plurality of packets. In contrast, Doshi appears to be silent regarding multi-packet frames. Therefore, Doshi does not appear to disclose or suggest a frame comprising a plurality of packets as presently claimed.

Claim 1 further provides at least one packet having a header section having a plurality of identification portions. In contrast, Doshi appears to be silent regarding a plurality of identification portions in a header. Therefore, Doshi does not appear to disclose or suggest at least one packet having a header section having a plurality of identification portions as presently claimed. As such, the claimed invention is fully patentable over the cited reference and the rejection should be withdrawn.

Claim 16 provides a packet comprising a header length. In contrast, Doshi appears to be silent regarding a header length. In particular, the PDU length indicator shown in Figure 2 of Doshi appears to include a length of the framed protocol data unit (PDU), not just the header. Therefore, Doshi does not appear to disclose or suggest a packet comprising a header length as presently claimed. As such, the claimed invention is fully patentable over the cited reference and the rejection should be withdrawn.

Claim 17 provides adding a header section having a plurality of identification portions to each of a plurality of packets. In contrast, Doshi appears to be silent regarding a plurality of identification portions in the headers. Therefore, Doshi does not appear to disclose or suggest adding a header section having a plurality of identification portions to each of a plurality of packets as presently claimed. As such, the claimed invention is fully patentable over the cited reference and the rejection should be withdrawn.

Claim 6 provides discarding at least one packet upon detecting an error. Applicant's representative respectfully traverses the assertion on page 4 of the Office Action that discarding information with errors is inherent. Inherency requires certainty of results, not mere possibility (See, e.g., *Ethyl Molded Products Co. v. Betts Package, Inc.*, 9 U.S.P.Q. 2d 1001 (E.D.Ky 1988). See also, *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (C.C.P.A. 1981)). In contrast, page 1297, left column, lines 3-5 of Doshi state, "The CRC polynomial allows correction of all single bit errors and detection of multiple bit errors in the SDL header." Doshi discloses that information with an error can be repaired instead of discarded. Thus, discarding information with errors does not appear to be a certainty and thus is not inherent. Therefore, Doshi does not appear to disclose or suggest discarding at least one packet upon detecting an error as presently claimed.

As such, claim 6 is fully patentable over the cited reference and the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claim 5 under 35 U.S.C. §103(a) as being unpatentable over Doshi in view of Bergman et al. '694 (hereafter Bergman) has been obviated by appropriate amendment and should be withdrawn.

Doshi concerns a simple data link (SDL) protocol as an efficient and low complexity data link protocol for high-speed packet networks (Title). Bergman concerns a fault isolation for communications network for isolating the source of faults comprising attacks, failures, and other network propagating errors (Title). Doshi and Bergman, alone or in combination, do not appear to teach or suggest every element of claim 5.

Claim 5 provides a downstream node configured to determine that an upstream node is faulty based on a payload error portion of a packet. Page 6, lines 1-2 of the Office Action admit that Doshi does not disclose a downstream node identifying a faulty upstream node. FIG. 6 of Bergman appears to teach a downstream node adjusting an upstream node status based on an arrival of an alarm message from the upstream node relative to a time window T to $T+T^{MEAS}$. Both Doshi and Bergman appear to be silent regarding the faulty determination being based upon a payload error portion of a

packet. Therefore, Doshi and Bergman, alone or in combination, do not appear to teach or suggest a downstream node configured to determine that an upstream node is faulty based on a payload error portion of a packet as presently claimed. As such, claim 5 is fully patentable over the cited references and the rejection should be withdrawn.

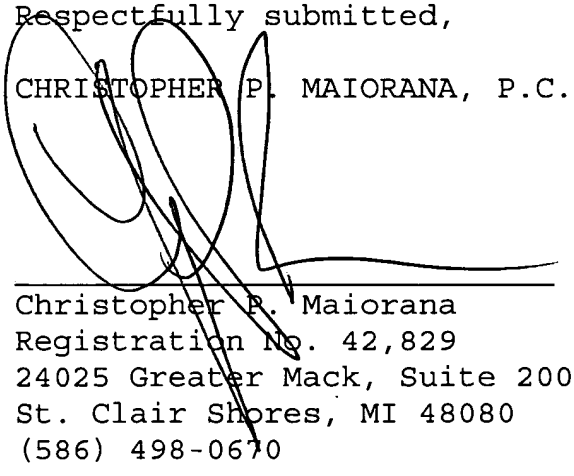
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge our office Account No. 50-0541.

Respectfully submitted,

CHRISTOPHER P. MAIORANA, P.C.



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